

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 7011

August 20, 2023

SUMMARY OF BILL: Establishes that a person who illegally transfers a firearm to a minor is criminally responsible for any resulting act of mass violence or a threat of mass violence in which the minor uses or threatens to use the firearm. Effective October 1, 2023.

FISCAL IMPACT:

Increase State Expenditures - \$77,100 Incarceration

Assumptions:

- Pursuant to Tenn. Code Ann. § 39-11-401, a person is criminally responsible as a party to an offense, if the offense is committed by the person's own conduct, by the conduct of another for which the person is criminally responsible, or by both. Each party to an offense may be charged with the commission of the offense.
- Pursuant to Tenn. Code Ann. § 39-11-402, a person is criminally responsible for an offense by the conduct of another, if:
 - acting with the culpability required for the offense, the person causes or aids an innocent or irresponsible person to engage in the offense;
 - acting with intent to promote or assist the commission of the offense, or to benefit in the proceeds or result of the offense, the person solicits, directs, aids, or attempts to aid another person to commit the offense; or
 - having a duty imposed by law or voluntarily undertaken to prevent commission of the offense and acting with intent to benefit in the proceeds or results of the offense, or to promote or assist its commission, the person fails to make a reasonable effort to prevent commission of the offense.
- Pursuant to Public Chapter (PC) 395 of 2021 (codified at Tenn. Code Ann. § 39-16-517), a person who recklessly, by any means of communication, threatens to commit an act of mass violence on school property or at a school related activity commits a Class A misdemeanor.
- Based on information provided by the Administrative Office of the Courts, there have been zero Class A misdemeanor convictions for threatening to commit an act of mass violence on school property or at a school related activity since enactment of PC 395 in 2021.
- There will not be a sufficient number of Class A misdemeanor prosecutions under the proposed legislation for local governments to experience any significant increase in revenue or expenditures.

- According to the 2022 paper, *Characterization of Mass Shootings by State, 2014-2022*, there have been a total of 124 mass shooting incidents in Tennessee in the last nine years, or an average of 13.7 mass shootings per year.
- A mass shooting in the study is defined as an incident with four or more individuals shot or killed, not including the shooter.
- The proposed language defines mass violence as a criminal act, which leads to, or which a reasonable person would conclude could lead to, the serious bodily injury or the death of two or more persons, that occurs from the use of the firearm that was unlawfully sold, loaned, or gifted to the minor.
- This analysis assumes 10 percent of such incidents or 1.37 (13.7 x 10.0%) were committed with the use of a firearm that was unlawfully sold, loaned, or gifted to a minor and led to the serious bodily injury or death of two or more persons.
- This analysis assumes a person who commits an act of mass violence under current law would be charged with a Class A felony offense of first-degree murder or attempted first-degree murder under Tenn. Code Ann. § 39-13-202.
- Passage of the proposed legislation will result in 0.69 new Class A felony admissions for criminally responsible first-degree murder and 0.68 new Class A felony admissions for attempted first-degree murder as a result of illegally transferring a firearm to a minor that uses the firearm in an act of mass violence.
- Pursuant to Tenn. Code Ann. § 40-35-501(h)(1)-(2), there shall be no release eligibility for a defendant receiving a sentence of imprisonment for life without possibility of parole for first degree murder. A defendant who receives a sentence of imprisonment for life is required to serve a minimum of 51 full calendar years.
- The proposed legislation will result in 0.69 admissions annually serving a minimum of 51 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 1.07 percent per year (from 2019 to 2022).
- The weighted average operational costs per inmate per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 12,800	FY24-25
\$ 25,700	FY25-26
\$ 38,800	FY26-27

- The average sentence for the Class A felony offense of attempted first degree murder is 19.25 years.
- Pursuant to Tenn. Code Ann. § 40-35-501(bb), a person convicted of attempted first degree murder on or after July 1, 2022 is required to serve 100 percent of the sentence imposed.

- This analysis assumes that offenders committing the offense of criminally responsible attempted first-degree murder would be sentenced to the highest period of confinement within Range I, or 25 years, and serve 100 percent of the sentence.
- The proposed legislation will result in 0.68 admissions annually serving 25 years.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 12,600	FY24-25
\$ 25,300	FY25-26
\$ 38,300	FY26-27

- Pursuant to Tenn. Code Ann. § 9-4-210, recurring cost increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$77,100 (\$38,800 + \$38,300).
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal analysis are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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